

ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014

COMMITTEE STATEMENT

LB884

Hearing Date: Tuesday January 28, 2014

Committee On: Agriculture

Introducer: Hansen

One Liner: Name and change the Exotic Animal Auctions and Swap Meets Act and change the Livestock Auction Market Act

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Schilz, Wallman, Lathrop, Johnson, Hansen, Chambers
Nay:		
Absent:	1	Senator Harr
Present Not Voting:	1	Senator Bloomfield

Proponents:

Sen. Tom Hansen
Jeremy Van Boening
Greg Ibach
Mick Mines
Bruce Brodersen
Anthony Aerts

Representing:

Introducer
Nebraska Cattlemen
NE Department of Agriculture
Nebraska Humane Society
NE Veterinary Medical Association
NE Farm Bureau Federation

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

The primary substantive provisions of LB 884 are found in sections 13 through 19, which consolidate and expand upon livestock disease authorities and rules governing the conduct of exotic animal market venues found in Chapter 54, Article 7 under a distinct named act. Section 13 amends section 54-7,105 to incorporate and cite existing sections 54-7,105 2013 54-7108 and new sections 14, 18 & 19 inserted by LB 884 as the Exotic Animal Auctions and Swap Meets Act. Sections 14 2013 19 make a number of substantive revisions to statutory provisions pertaining to exotic animal marketing venues as follows:

Section 14 inserts a new section setting forth defined terms utilized in the Exotic Animal Auctions and Swap Meets Act. Existing defined terms utilized within existing sections 54-7,105 2013 54-7,108 are currently located at section 54-701.03. LB 884 strikes the terms 201C exotic animal 201D, 201C exotic animal auction or swap meet 201D and 201C exotic animal auction or swap meet organizer 201D from section 54-701.03 and reinserts these terms in Section 14 of the bill. Section 14 also replicates other terms found in section 54-701.03 that continue to be essential within the context of the Act by inserting a definition or reference to those terms as defined in section 54-701.03. Some revisions to current definitions of these terms are made as follows:

The term 201C exotic animal 201D retains existing definition intended to distinguish animals classified as exotic as those not utilized for commercial livestock purposes or exchanged in licensed auctions markets. Current law describes

certain breeds and types of sheep and goats that are included within the definition of exotic animals. LB 884 would no longer limit sheep species included in the definition of exotics to certain breeds.

The term 201C exotic animal auction or swap meet 201D continues the current exclusion of events held by licensed auction market. The exclusion of venues subject to the Act is expanded to exclude events by an animal organization. The definition of an exotic venue is clarified to expressly include an event to which animals are consigned for sale. Finally, the defined term includes any event or location not specifically identified in preceding description of locations meeting the definition of an exotic animal auction or swap meet where change of ownership occurs.

The term 201C exotic animal auction or swap meet organizer 201D is clarified include persons coordinating exotic animal exchange activities upon premises of a retail location, or a person to whom exotic animals are consigned by third parties.

201C Certificate of veterinary inspection 201D is added as a defined term. The definition replicates the documentation issued by an accredited veterinarian upon animal movements or transfer of ownership as described in the Animal Importation Act and corresponding regulatory definition.

Current provisions governing exotic animal marketing venues located in sections 54-7,105 to 54-7108 assign a duty to organizers to notify the Department in advance of the date and locations of such events, specify records to be produced and maintained by organizers, and limits species of animals that may be sold or exchanged at exotic animal venues. LB 884 expands duties of exotic animal event organizers and participants in the following ways:

Section 54-7,106 is amended by section 15 to provide that in addition to prior notification of event dates and locations, conduct of an event would require application for and issuance of a permit for each event by the Department of Agriculture. Exotic animal auctions conducted by a licensed auction market are subject to compliance with the Act. Subsequent issuance of permits for a swap meet event is subject to compliance with the act and the Department is authorized to set forth procedures for denial through rule and regulation.

Currently, a certificate of veterinary inspection (CVI) is required pursuant to section 54-7,107 to be included in records kept by an event organizer only if a CVI is required for that animal under the animal import act for animals transported from out-of-state. LB 884 amends section 54-7,107 to require a CVI to be provided and maintained in organizer records for all animals exchanged, and to provide that an organizer submit copies of CVIs to the Department within seven days of the event. A corresponding revision is made in section 54-7,108 to prohibit any transfer of ownership occurring at an event unless the owner provides the organizer with a valid CVI issued within the previous thirty days and that sheep and goats are officially identified as provided in the Scrapie Eradication and Control Act. The revisions to this section further require event organizers to contract with an accredited veterinarian to be present on the date of the event and available to issue necessary certificates of veterinary inspection.

Current law prohibits the sale of breeds of livestock species normally sold through licensed auction markets (beef, dairy, swine, bison, domesticated cervine animals, and sheep or goats sold for livestock purposes of production of food, fiber or milk) from being sold through an exotic venue. This prohibition conforms with the Livestock Auction Market Act which requires markets where livestock species are sold to be licensed under that act. Section 54-7,108 is revised by LB 884 to no longer prohibit sheep and goat species from being exchanged at exotic venues, but requires that exchanges of sheep and goats shall comply with identification requirements of the Scrapie Control and Eradication Act and that any dairy goats sold or consigned for sale shall be tested for tuberculosis prior to entry into the state. In addition, section 54-1159 of the Nebraska Livestock Auction Markets Act is revised to exclude exotic animal auction markets or swap meets from the requirement to be licensed as a livestock market provided livestock species not excluded from being sold at an exotic venue are accompanied by a CVI and the organizer contracts for an accredited veterinarian to be present.

New section 19 inserts enforcement provisions. This section provides that the Department of Agriculture may exercise enforcement authorities of sections sections 54-703 to 54-705, that the Department may adopt rules and regulations and seek penalties and violations for violations pursuant to sections 54-751 and 54-753. These statutes are currently

applicable to enforcement of exotic animal venues by the inclusion of sections 54-7,105 2013 54-7,108 within the range of statutes (commonly referred to as general powers sections) that these enforcement authorities currently apply to. Harmonizing revisions to sections 54-703, 54-705, 54-751 and 54-753 to conform internal citation to statutes to which they apply to incorporate the named act in place of the existing specific statute codifications.

In addition to sections relating to exotic animal sales venues, LB 884 makes a number of statutory cleanup changes to the Nebraska Livestock Auction Market. These include:

Sections 2 through 4 of the bill strike existing codification of sections 54-1103 through 54-1105 of the Livestock Auction Markets Act which provide for open market designation (auction markets and packing plants located outside the brand inspection area that maintain brand inspection). In conjunction with section 1 of the bill, these sections would be reassigned from the Livestock Auction Market Act to be included within the Brand Law in Chapter 54, article 1. Section 54-1183 is further amended by section 2 to insert an external reference to the defined term 201C livestock auction market 201D to define that term for its use within the Nebraska Brand Act. All three sections also contain harmonizing internal reference to reflect the relocation of sections referenced. A corresponding external reference is inserted into the Livestock Auction Market Act by section 23 of the bill to the reassigned location of the open market provisions.

Section 54-1161 is amended by section 24 to no longer require applicants for livestock auction market license to provide a social security number.

Sections 25 and 26 remove the State Veterinarian as a party to hear contested case license denial or discipline actions brought by license applicants livestock auction markets. All such cases would be heard and determined by the Director. The bill further removes the requirement for the Director to keep a complete transcript of appeal proceeding and require an audio recording.

LB 884 revises provisions pertaining to compensation of veterinarians assigned to livestock markets to oversee regulatory functions. LB 884 strikes existing provisions of section 54-1180 which imposes an inspection fee paid collected markets and remitted to the Director. This section provides that such fees are expended exclusively to pay the veterinarian. Inspection fees are to be set by regulation of the Director and may not be changed without prior notice and hearing.

Currently, section 54-1180 specifies that market veterinarians are paid a minimum of \$25 day and further provides that if inspection fees are insufficient to meet this minimum salary, the market is liable for the difference. LB 884 strikes the minimum salary and procedural provisions governing fee revisions. Section 54-1181 is amended to provide that the compensation of the veterinarian shall be determined by rule and regulation.

Certain rule and regulatory authorities are reassigned from the State Veterinarian to the Department of Agriculture.

The bill outright repeals sections 54-1174 and 54-1177 which provide for certified copies of a market's license and bond to be obtained for a fee and establishes the validity of such documents as admitted evidence in court proceedings. With repeal of sections 54-1174 and 54-1177, the provisions for obtaining certified copies of these documents and their admissibility as evidence would default to general provisions under the public records statutes and rules of evidence. Repealed section 54-1177 contains a requirement that a license or certified copy of a license be displayed on the premises of a market during market events.

Explanation of amendments:

The Committee Amendment (AM1785) makes the following substantive changes to the bill.

Revises the citation to be the Exotic Animal Auctions or Exchange Venue Act. This term is substituted where appropriate throughout the bill.

Original section 15 is stricken but replaced by a rewritten section 15 to enable better comparison between the section as introduced and as revised by the amendment. The revisions to section 15 make the following changes from the bill as introduced.

Expands the information required on a permit application to include verification that the applicant has contracted for the services of an accredited veterinarian as required in 54-7,108 as amended elsewhere in the bill

Adds greater statutory direction regarding grounds for denial of a permit application. The department could deny a permit due to incomplete application, previous acts or omissions of the applicant in violation of the Act, or determination that the applicant is unable to fulfill the responsibilities of a permit holder. The amendment strikes a delegation to the Department to define denial procedures by rule and regulation. Due process appeal of denial would therefore default to the contested case procedures of the Administrative Procedures Act.

Inserts an explicit prohibition against conduction an exotic animal auction or exchange without a permit. A harmonizing revision to section 54-7,105 is inserted to conform a description of the purpose of the Act to be consistent with the requirement for a permit to conduct an exotic animal event.

Requirements that sheep and goats sold through exotic venues is permitted provided the animals are identified in compliance with the Scrapie Eradication program is relocated to subsection (5)

Revisions to sections 16 and 17 of the bill confine the requirement for a CVI only to bovine, camelid, caprine, ovine or porcine animals.

The amendment reinstates the stricken text from section 54-1181. No change would be made in current law governing compensation of market vets and notification procedures required for the Department to consider revisions to health inspection fees for regulatory health inspections performed at livestock auction market venues.

A new section 26 amending section 54-1166 is inserted to reinsert the requirement currently found in outright repealed section 54-1177 that the auction market license be displayed on the auction market premises.

Ken Schilz, Chairperson